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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FOUR

THE PEOPLE,

Plaintiff and Respondent,

v.

AIDA SANDOVAL,

Defendant and Appellant.

B216568

(Los Angeles County
Super. Ct. No. BA280950)

APPEAL from a judgment of the Superior Court of Los Angeles County,
Lance A. Ito, Judge. Affirmed.

Cannon & Harris and Donna L. Harris, under appointment by the Court of
Appeal and the California Appellate Project, for Defendant and Appellant.

Edmund G. Brown, Jr., Attorney General, Dane R. Gillette, Chief Assistant
Attorney General, Pamela C. Hamanaka, Senior Assistant Attorney General,
Lawrence M. Daniels and Laurene E. Dana, Deputy Attorneys General, for
Plaintiff and Respondent.

RELEVANT FACTUAL AND PROCEDURAL BACKGROUND

On April 26, 2005, an information was filed charging appellant Aida Sandoval and Yessenia Romero¹ in count 1 with the murder of Belen Dercio (Pen. Code,² § 187, subd. (a)); in count 2, with the murder of Rolando Rojas (§ 187, subd. (a)); and in count 3, with the attempted willful, deliberate, and premeditated murder of Salvador Ramirez (§§ 187, subd. (a), 664). Under counts 1 and 2, the information alleged that appellant and Romero had committed the murders by lying in wait (§ 190.2, subd. (a)(15)); furthermore, under each count it was alleged that a principal involved in the offense had been armed with a firearm (§ 12022, subd. (a)(1)).

Appellant pleaded not guilty, and denied the special circumstances and firearm allegations. On October 19, 2005, a jury found appellant guilty of voluntary manslaughter regarding Dercio and Rojas, and guilty of attempted voluntary manslaughter regarding Ramirez. It found the firearm allegations not true.³ The trial court imposed a total sentence of 14 years and four months in prison, composed of the high term of 11 years for count 1, a consecutive term of two years for count 2, and a consecutive term of one year and four months for count 3. Appellant noticed an appeal from the judgment.

In our original opinion (*People v. Sandoval* (Nov. 14, 2006, B187977) [nonpub. opn.], review granted Feb. 7, 2007, S148917), we concluded that under

¹ Romero and appellant were tried together. Romero is not a party to this appeal.

² All further statutory citations are to the Penal Code, unless otherwise indicated.

³ The jury found Romero guilty of involuntary manslaughter regarding Dercio and Rojas, and found the firearm allegations not true.

People v. Black (2005) 35 Cal.4th 1238 (*Black*) the trial court properly imposed the high term on count 1; we modified the sentence imposed on count 3 for reasons not relevant here and affirmed the judgment, so modified. The United States Supreme Court subsequently overruled *Black* in part in *Cunningham v. California* (2007) 549 U.S. 270. Shortly thereafter, in *People v. Sandoval* (2007) 41 Cal.4th 825 (*Sandoval*), the California Supreme Court reversed our judgment with respect to the high term imposed on count 1, and remanded the case to us with directions to remand it to the trial court for resentencing in accordance with its opinion.

On September 24, 2007, while the case was pending before this court, the trial court conducted a sentencing hearing, imposed the high term of 11 years for count 1, and otherwise reaffirmed its original sentence. Appellant noticed an appeal regarding the sentence shortly before we filed our post-remand opinion in the original appeal (*People v. Sandoval* (Sept. 28, 2007, B187977) [nonpub. opn.]). The post-remand opinion reasserted our original conclusions on all matters aside from the sentence on count 1, and remanded the case to the trial court for resentencing on count 1 pursuant to *Sandoval*, as directed by the Supreme Court.

On October 22, 2008, we issued our opinion in the appeal from the sentence imposed on September 24, 2007 (*People v. Sandoval* (Oct. 22, 2008, B203241) [nonpub. opn.]). We concluded that the trial court lacked the jurisdiction to impose the sentence. Accordingly, we reversed the sentence and remanded the matter to the trial court with directions to resentence appellant on count 1 in accordance with *Sandoval*, as elaborated in our post-remand opinion (*People v. Sandoval* (Sept. 28, 2007, B187977) [nonpub. opn.]). Our remittitur issued on December 24, 2008.

On April 23, 2009, the trial court re-imposed the high term of 11 years on count 1; in addition, the sentence previously imposed, except as modified by this court, was to remain in full force and effect. This appeal followed.

DISCUSSION

Appellant's sole contention is that the sentencing scheme that our Supreme Court established in *Sandoval* for resentencing her on remand is infirm under the United States Constitution. She argues that the scheme contravenes the ex post facto and due process clauses of the federal Constitution. She recognizes that our Supreme Court concluded the scheme does not offend the clauses (*Sandoval*, *supra*, 41 Cal.4th at pp. 853-858), but maintains *Sandoval* was wrongly decided. We decline to address that contention, as we are bound by our Supreme Court's determinations regarding these matters. (*Auto Equity Sales, Inc. v. Superior Court* (1962) 57 Cal.2d 450, 455.)

DISPOSITION

The judgment, as previously modified by this court (*People v. Sandoval* (Sept. 28, 2007, B187977 [nonpub. opn.]), is affirmed.

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MANELLA, J.

We concur:

EPSTEIN, P. J.

SUZUKAWA, J.